



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

APR 19 2006

Richard Barwacz
Treasurer
American Society of Anesthesiologists PAC
520 N. Northwest Highway
Park Ridge, IL 60068

RE: MUR 5729

Dear Mr. Barwacz:

On April 6, 2006, the Federal Election Commission found that there is reason to believe the American Society of Anesthesiologists Political Action Committee and you, in your official capacity as Treasurer, violated 2 U.S.C. § 434(g)(2)(A) and 11 C.F.R. § 104.4(b)(2), provisions of the Federal Election Campaign Act of 1971, as amended (the "Act"). These findings were based upon information ascertained in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2). The Factual and Legal Analysis, which more fully explains the Commission's findings, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519.

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Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Jin Lee, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Michael E. Toner
Chairman

Enclosures

Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: American Society of Anesthesiologists PAC; **MUR:** 5729
Richard Barwacz, in his official
capacity as Treasurer

I. INTRODUCTION

This matter originated with information ascertained by the Commission in the ordinary course of its supervisory responsibilities. For the reasons set forth below, there is reason to believe that the American Society of Anesthesiologists Political Action Committee and Richard Barwacz, in his official capacity as Treasurer (the "Committee"), violated 2 U.S.C. § 434(g)(2)(A) and 11 C.F.R. § 104.4(b)(2).

II. FACTUAL AND LEGAL ANALYSIS

Information ascertained by the Commission in the ordinary course of its supervisory responsibilities indicates that there is reason to believe that the Committee violated 2 U.S.C. § 434(g)(2)(A) and 11 C.F.R. § 104.4(b)(2) by failing to file three 48-Hour Notices relating to three independent expenditures totaling \$245,600. According to the Committee's disclosure reports, the Committee made three independent expenditures, which aggregated at least \$10,000 or more, between January 1, 2004 and the 20th day prior to the 2004 Congressional Primary Elections held in Georgia, Nevada, and Washington. The Committee disclosed these expenditures in its 2004 May, August and September Monthly Reports but did not file 48-Hour Notices. Under 2 U.S.C. § 434(g)(2)(A), a political committee that makes an independent expenditure "aggregating \$10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours." *Id.*; see also, 11 C.F.R. § 104.4(b)(2). In response to Requests for Additional Information ("RAFI") noting the Committee's failure to file the required 48-Hour Notices, the Committee admitted to

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these omissions and stated that it has taken action to rectify "internal problems" relating to the reporting of independent expenditures. Miscellaneous Submissions, filed November 1, 2004 and January 11, 2005.

III. CONCLUSION

Accordingly, the Commission finds reason to believe that American Society of Anesthesiologists Political Action Committee and Richard Barwacz, in his official capacity as Treasurer, violated 2 U.S.C. § 434(g)(2)(A) and 11 C.F.R. § 104.4(b)(2).

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